THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24053 OF 2006

18.11.2006

Between:

Dr.K.Chandana, W/o.K.Lakshminarayana

… Petitioner

AND

The District Collector, Ananthapur District

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24053 OF 2006

ORDER:

House site admeasuring Acs.0.2½ cents marked as plot No.123 in survey Nos.317, 318 and 322 was assigned to one M.Venkateswara Rao (R.K) by proceedings dated 16.4.2003. The petitioner alleges that she is the daughter of M.Venkateswara Rao, who was allotted house site on his surrender to the Government after having worked with Peoples War Group (PWG). After death of original assignee, petitioner and her mother, Prabhavathamma, wanted to settle down in Ananthapur. When they went to house site, the came to know that third respondent cancelled assignment and Mandal Revenue Inspector was asked to take possession of the land. In this writ petition, petitioner assails the proceedings of third respondent dated 17.8.2005 ordering resumption of the land to the Government. Be it also noted that on an application made by the fourth respondent, the Joint Collector by proceedings dated 17.3.2006 accorded permission to third respondent to issue house site patta to fourth respondent.

Learned Counsel for the petitioner submits that the assignment granted in favour of the father of petitioner was challenged only to reallot the same to fourth respondent. He would also urge the allegation that the ground on which the resumption ordered is untenable because the patta granted to late M.Venkateswara Rao does not stipulate any period during which a house has to be constructed. According to the learned Counsel resumption of the land for contravention of non-existent condition is arbitrary and illegal. **Per contra**, learned Assistant Government Pleader for Revenue (Assignment) submits that the petitioner filed the writ petition after lapse of one year without availing alternative remedy of filing appeal before the Revenue Divisional Officer (RDO). He also submits that subsequently by proceedings dated 17.3.2006 the fourth respondent was already granted house site patta.

Before considering submissions made by learned Counsel for the petitioner, it may be pointed out that the writ petition is filed by K.Chandana whereas the affidavit is filed by one Harijana Laxmamma,

W/o.late Harijana Pullanna, though it is signed and verified by K.Chandana. As per the Writ Proceedings Rules, 1977, the petitioner has to file affidavit in support of the writ petition. This basic requirement is absent in this case. This Court has strong reason to believe that the writ petition is filed without any concern for basic details required in filing a writ petition.

It is the submission of the learned Counsel for the petitioner that in the absence of any period for construction of a house, the land cannot be resumed for such violation. The same cannot be accepted. There is no denial that petitioner's father did not construct any house during his lifetime. Even if there is no specific condition in the house site patta, the same does not in any manner change the situation. A person who is assigned house site patta cannot keep it vacant without construction of a house. If a house is not constructed even after lapse of twelve years, as in this case, it can always be presumed that the assignee is not in need of house site. Therefore this Court does not find any infirmity in the impugned order. Further on 24.2.2003 the father of the petitioner made a representation to the District Collector to the effect that due to financial difficulties he could not construct house in the assigned plot and requested District Collector to sanction a constructed house under Indira Awas Yojana scheme by duly granting finance from District Housing Corporation. This would show that the assignee gave up his right and asked for constructed house.

A perusal of the impugned order would show that the fourth respondent herein made an application for grant of plot No.123. In the enquiry conducted by the Mandal Revenue Inspector, it was reported that the assignee M.Venkateswara Rao (R.K.) left for Ballari and he did not construct any house in the assigned land. A notice was therefore issued to the original assignee through the Secretary of Gram Panchayat, who announced the same by beat of tom-tom in the colony, as the assignee or his legal heirs are not residing in Ananthapur. Thereafter, the impugned order was passed. If the petitioner came to know about the impugned order subsequently, it was always open to her to approach the RDO by filing appeal. She did not do so. In the mean while, plot No.123 has been reallotted to fourth respondent. Therefore, the claim of the petitioner, is belated and no relief can be granted to her.

The writ petition is misconceived and is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

November 18, 2006
YS